

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PETER ALLMAN,

Plaintiff,

-against-

STARBUCKS CORPORATION,

Defendant.
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Docket No.: 1:18-cv-03411

**RULE 56.1 STATEMENT OF MATERIAL FACTS IN OPPOSITION TO
DEFENDANT'S MOT FOR SUMMARY JUDGMENT AND TO PRECLUDE
PLAINTIFF'S LIABILITY EXPERT**

PLAINTIFF, Peter Allman respectfully submits this Statement of material Facts in opposition to Defendant's motion for summary judgment and motion to preclude Plaintiff's liability expert, pursuant to Local Rule 56.1:

1. Admits.
2. Denies. Evidence establishes that Plaintiff sustained personal injuries when he slipped and fell on an accumulation of water on the floor of the bathroom of a Starbucks Coffee Shop.
3. Admits.
4. Denies. Plaintiff's Verified Bill of Particulars was e-filed on February 28, 2011 and Plaintiff's Supplemental Verified Bill of Particulars was e-filed on May 15, 2012.
5. Denies. Starbucks Notice of Removal was filed via ECF on June 12, 2018, and is identified as Doc No. 1.
6. Admits.
7. Admits.
8. Admits.

9. Denies Starbucks employee, Sayeed Akbar gave deposition testimony on April 15, 2019.

10. Denies. Plaintiff Expert Witness Disclosure disclosed an expert report authored by Joseph . Pollini, dated May 10, 2019 on May 15, 2019.

11. Denies

12. Admits

13. Admits

14. Denies. Plaintiff, Peter Allman testified that he had been to the subject Starbucks coffee shop "60-75 times easy" Exhibit "E", Page 17, Line 3.

15. Admits.

16. Admits.

17. Admits.

18. Admits.

19. Admits.

20. Admits.

21. Denies. Plaintiff did not testify that there was no line.

22. Admits.

23. Admits.

24. Denies. Plaintiff testified that you have to turn right to the toilet and the sink is located to the right of the toilet. Exhibit "E", Page 33, Lines 7-11.

25. Denies. The testimony as stated in #33 of Defendant's Rule 56.1 Statement does not appear in the transcript.

26. Admits.

27. Admits.

28. Admits.

29. Admits.

30. Denies. Plaintiff testified that his accident occurred as he was walking to the toilet.

Exhibit "E", Page 36, Lines 6-9.

31. Admits.

32. Admits.

33. Denies. Plaintiff testified that he went swish on his hip, straight on his back.

Exhibit E, page 36, Lines 29-23. He additionally testified, specifically, that his feet were facing the toilet. Exhibit "E", Page 39, Line 18.

34. Admits

35. Admits.

36. Admits.

37. Admits.

38. Admits.

39. Admits.

40. Admits.

41. Denies. Plaintiff responded affirmatively as to whether he had observed liquid on the floor of the bathroom on prior visits to the Starbucks. Exhibit E, Page 59, Lines 5-18.

42. Admits.

43. Admits.

44. Admits.

45. Admits.

46. Admits.

47. Admits.

48. Admits.

49. Admits.

50. Admits.

51. Admits.

52. Admits.

53. Denies. Jenny Leung did not testify that the restroom was inspected more than once an hour. She testified that the restroom is inspected "pretty much once an hour" (Leung EBT, p. 16) and "approximately" once an hour. (Leung EBT, Page 64).

54. Denies.

55. Admits.

56. Admits.

57. Admits.

58. Admits.

59. Admits.

60. Admits.

61. Denies. Nataly Villanueva testified that she inspected Sayeed Akbar's work within a half hour to an hour of Plaintiff's accident, Exhibit F, Lines 11-13.

62. Admits.

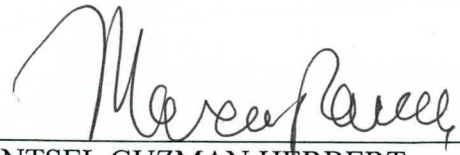
63. Admits.

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86. Admits.
87. Admits.
88. Admits.

Dated: New York, New York
March 18, 2021

A handwritten signature in black ink, appearing to read 'Krentsel Guzman Herbert', written over a horizontal line.

KRENTSEL GUZMAN HERBERT
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